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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Onur G. Guleryuz

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EXAMINER

CHAWAN, SHEELA C

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on Nov 28, 2005 has been entered and made of record.

Claims 1- 41 are pending in the application.

Response to Arguments

2. Applicant's arguments filed on Nov 28, 2005 have been fully considered and persuasive, see applicant's remarks on page 12, lines 25-27 and page 13, lines 3-5, 14-16, 19-21 and 25- 27 with respect to claims 1- 41 under 102(e) has been withdrawn. Therefore, double patenting rejection is maintained.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1- 41 of provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of copending Application No. 10/729,663. Although the conflicting claims are not identical,

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they are not patentably distinct from each other because. because each of the limitations of the instant application is defined by the claims of the copending application. In particular, claim 1 of the copending application includes each of the limitations of claim 1 of the instant application. While the copending application claim includes additional limitations not specifically recited by the claim of the instant application, the use of the transitional term "comprising" in the instant claim fails to preclude the possibility of additional features or elements. Therefore, the invention defined by claim 1 of the instant application is not patentably distinct from the invention defined in claim 1 of the copending application. Similarly claims 6, 12 and 25 of the copending application includes each of the limitations of claims 16, 24 and 35 of the instant application, so that claims 8, 20 and 30 also fail to define a patentably distinct invention. Furthermore, dependent claims 2- 7, 9- 15, 17- 19, 21- 23, 25-29,31-34, 36- 41 of the instant application are each identical to variously of claims 2-5, 7-11,13-16, 18- 24, 26- 29 of the copending application, and are similarly not patentably distinct.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

As to claim 1, discloses a method of labeling digital image data (see 10/729,663 page 56, line 1 preamble), comprising:

a) detecting edges defined by image data having a first resolution (see, 10/729,663, page 56, lines 4 - 6, receiving multiple images from different branches, and detecting different resolution, corresponds to first resolution);

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b) detecting edges defined by the image data having a second resolution (see, 10/729,663, page 56, lines 4 - 7, receiving multiple images from different branches, and detecting different resolution, corresponds to second resolution);

c) combining results from a) with results from b) to define intermediate image data (see, 10/729,663, page 56, line 9, combining data output from the at least two of the multiple branches); and

d) associating a label with each pixel of the image data (classifying different groups of the pixel values corresponds to labeling. Classifying a pixel of image data as one of the plurality of image types is based on plurality of image characteristic for the pixel is determined based on resolution, see, 10/729,663, page 56, line 10).

As to claim 8, see the rejection of claim 1.

As to claim 16, see the rejection of claim 1.

As to claim 20, see the rejection of claim 1.

As to claim 24, see the rejection of claim 1.

As to claim 30, see the rejection of claim 1.

As to claim 35, see the rejection of claim 1.

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela C Chawan whose telephone number is. 571-272-7446. The examiner can normally be reached on Monday - Thursday 7.30 - 6.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu reached on 571-272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sheela Chawan
Patent Examiner
Group Art Unit 2623
Jan 9, 2006